

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)	
)	
v.)	02: 05-cr- 0219
)	02: 09-cv-0529
THOMAS EDWARD THROCKMORTON)	

ORDER OF COURT

Presently before for the Court for disposition is the MOTION TO RECONSIDER DENIAL OF MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE PURSUANT TO TITLE 28 USC 2255, DENIAL OF EVIDENTIARY HEARING, AND DENIAL OF CERTIFICATE OF APPEALABILITY filed by Thomas Edward Throckmorton, *pro se* (Document No. 128).

By Memorandum Opinion and Order of October 22, 2009, the Court denied the MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE PURSUANT TO TITLE 28 U.S.C. § 2255 filed by Thomas Edward Throckmorton ("Throckmorton"). On October 29, 2009, Throckmorton timely filed a Notice of Appeal with the United States Court of Appeals for the Third Circuit. *See* Letter from Office of the Clerk for the United States Court of Appeals (Document No. 124-2).

"As a general rule, the timely filing of a notice of appeal is an event of jurisdictional significance, immediately conferring jurisdiction on a Court of Appeals and divesting a district court of its control over those aspects of the case involved in the appeal." *Venen v. Sweet*, 758 F.2d 117, 120 (3d Cir. 1985) (*citing Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982) (superceded on other grounds by change in the Federal Rules)). This general rule is designed to prevent both inconsistent orders and the judicial inefficiency which could arise

when two courts address the same issues simultaneously. *Id.* at 121. Because the ultimate question of the correctness of the Memorandum Opinion and Order of October 22, 2009, is currently before the Court of Appeals for the Third Circuit, this Court is without jurisdiction to hear and/or rule on Throckmorton's Motion for Reconsideration. *Id.* at 122-23.

Accordingly, on this 13th day of November, 2009, it is hereby **ORDERED** that the Motion for Reconsideration is **DENIED** for lack of jurisdiction.

BY THE COURT:

s/Terrence F. McVerry
United States District Court Judge

cc: Thomas Edward Throckmorton
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